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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN CODY SWAIN,

Defendant.

Case: 2:20-cr-20036

Assigned To : Goldsmith, Mark A.

Referral Judge: Grand, David R.

Assign. Date : 1/28/2020

Description: INDI USA v. SWAIN (SO)

VIO: 18 U.S.C. § 2251(a)

18 U.S.C. §2252A(a)(2)

18 U.S.C. § 2252A(a)(5)(B)

INDICTMENT

COUNT ONE

18 U.S.C. § 2251(a)

*Production of Child Pornography*

On or about June 20, 2018, in the Eastern District of Michigan, the defendant, JUSTIN CODY SWAIN, did knowingly employ, use, persuade, induce, entice and coerce a minor, specifically, MV-1, who was under 18 years of age, to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, knowing that such visual depiction would be transported and transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, and the visual depiction was produced

and transmitted using materials that have been mailed, shipped, and transported in or affecting interstate and foreign commerce by any means, including by computer, and such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate and foreign commerce; all in violation of 18 U.S.C. § 2251(a).

**COUNT TWO**  
18 U.S.C. § 2251(a)  
*Production of Child Pornography*

On or about July 28, 2018, in the Eastern District of Michigan, the defendant, JUSTIN CODY SWAIN, attempted to and did knowingly employ, use, persuade, induce, entice and coerce a minor, specifically, MV-1, who was under 18 years of age, to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, knowing that such visual depiction would be transported and transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, and the visual depiction was produced and transmitted using materials that have been mailed, shipped, and transported in or affecting interstate and foreign commerce by any means, including by computer, and such visual depiction has

actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate and foreign commerce; all in violation of 18 U.S.C. § 2251(a).

**COUNT THREE**  
18 U.S.C. § 2252A(a)(2)  
*Distribution of Child Pornography*

In or about July of 2019 through in or about September of 2019, in the Eastern District of Michigan and elsewhere, the defendant, JUSTIN CODY SWAIN, did knowingly distribute child pornography as defined in 18 U.S.C. § 2256(8); and the images distributed by the defendant had been mailed, shipped, and transported using the Internet, a means and facility of interstate or foreign commerce, and had been mailed, shipped, and transported in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252A(a)(2).

**COUNT FOUR**  
18 U.S.C. § 2252A(a)(5)(B)  
*Possession of Child Pornography*

On or about September 12, 2019, within the Eastern District of Michigan, the defendant, JUSTIN CODY SWAIN, knowingly possessed one or more computer hard drives, cell phones, CDs, DVDs, cameras,

magazines, periodicals, and other material which contained child pornography, as defined in Title 18, United States Code, Section 2256(8), including but not limited to visual depictions of real minors, engaged in sexually explicit conduct, that had been shipped and transported using any means and facility of interstate and foreign commerce, had been shipped and/or transported in and affecting interstate and foreign commerce, and were produced using materials that have been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

### **FORFEITURE ALLEGATIONS**

The allegations alleged in Counts One, Two, Three, and Four of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 2253.

If convicted of an offense charged and set forth above, JUSTIN CODY SWAIN shall forfeit to the United States: (1) any visual depiction described in 18 U.S.C. §§ 2251, 2251A, 2252, 2252A, 2252B, or 2260, or any book, magazine, periodical, film, videotape, or other matter which

contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of Title 18, United States Code, Chapter 110; (2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from the offense; and (3) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense, or any property traceable to such property.

Such property includes, but is not limited to, a money judgment equal to an amount as proved in this matter, representing the total value of property subject to forfeiture from the defendant for his violation(s) of 18 U.S.C. § 2251(a) and/or 18 U.S.C. § 2252A(a)(2), as alleged in this Information. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 2253(b), to seek to forfeit any other property of the defendant up to the listed value.

**THIS IS A TRUE BILL.**

s/Grand Jury Foreperson  
GRAND JURY FOREPERSON

MATTHEW SCHNEIDER  
United States Attorney

s/Matthew A. Roth  
Matthew A. Roth  
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Dated: January 28, 2020

**ORIGINAL**United States District Court  
Eastern District of Michigan**Criminal Case Cover**

Case: 2:20-cr-20036

Assigned To : Goldsmith, Mark A.

Referral Judge: Grand, David R.

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Description: INDI USA v. SWAIN (SO)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete

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|--|-----------------------------|
| <b>Companion Case Information</b>  | Companion Case Number:      |
| This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> : | Judge Assigned:             |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      | AUSA's Initials: <u>Def</u> |

Case Title: USA v. Justin Cody SwainCounty where offense occurred : WayneCheck One: ☒ Felony ☐ Misdemeanor ☐ Petty☐ Indictment/ ☐ Information --- no prior complaint.☒ Indictment/ ☐ Information --- based upon prior complaint [Case number: 19-mj-30491 ]☐ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].**Superseding Case Information**

Superseding to Case No: \_\_\_\_\_ Judge: \_\_\_\_\_

- ☐ Corrects errors; no additional charges or defendants.
- ☐ Involves, for plea purposes, different charges or adds counts.
- ☐ Embraces same subject matter but adds the additional defendants or charges below:

Defendant nameChargesPrior Complaint (if applicable)

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

January 28, 2020  
Date

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 Assistant United States Attorney  
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 Attorney Bar #: P80959

<sup>1</sup> Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.